

Introduction

- [1] On May 26, 2023, the Landlord filed a Landlord Application to Determine Dispute (Form 2B) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application is seeking the following remedies pursuant to the Act.

- i. *An order directing my tenant to pay outstanding rent (s.85(1)(b))*
- ii. *An order that my tenant vacate the rental unit and ordering the Sheriff to put me in possession of the rental unit (s.51(4)(b))*

- [2] Attached to the Application, was an Eviction Notice (Form 4A) dated May 4, 2023 effective May 24, 2023 (the "Notice"). The Notice was personally served by K.H. onto the Tenant for the following reasons:

You have not paid your rent in the amount of \$1,400.00

- [3] On June 6, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant did not attend the hearing; the hearing was delayed ten minutes to accommodate any late arrival of the Tenant, the hearing subsequently continued with the Tenants absence.

Issue to be Decided

- i. Does the Tenant have to vacate the Residential Property due to the Notice?
- ii. Does the Tenant owe the Landlord rent?

Summary of the Evidence

- [4] The Landlord and the Tenant are parties to a tenancy agreement which was entered into by the previous property owner. The Residential Rental is a two-bedroom half duplex. Rent is \$700.00 monthly due on the first day of the month.

Landlord's Evidence and Submissions

- [5] The Landlord's evidence is summarized as follows. The Landlord's representative, K.H., stated that rent for April and May 2023 has not been paid (\$700.00 x 2) as well as now June rent. K.H. also stated that he received nothing after personally serving the Form 4A and has not received any rationale explaining the late rent.

Analysis

- [6] The relevant sections of the Act instruct,

Landlord's notice for non-payment of rent

60(1) A landlord may end a tenancy if rent is unpaid after the day it is due, by giving a notice of termination effective on a date that is not earlier than 20 days after the date the tenant receives the notice.

Tenant may dispute notice or pay unpaid rent

60(4) *Within 10 days after receiving a notice of termination under this section, the tenant may*

- (a) pay the overdue rent, in which case the notice of termination has no effect; or*
- (b) dispute the notice of termination by making an application to the Director under section 75.*

Tenant presumed to accept notice

60(5) *Where a tenant who has received a notice of termination under this section does not pay the rent or make an application to the Director in accordance with subsection (4), the tenant*

- (a) is deemed to have accepted that the tenancy ends on the effective date of the notice of termination; and*
- (b) shall vacate the rental unit by that date.*

Landlord's right to possession restricted

51(4)(b) *A landlord shall not regain possession of a rental unit unless the Director has made an order directing the tenant to vacate the rental unit and the order has been sent to the sheriff for enforcement.*

Powers of the Director

85(1)(b) *After hearing an application, the Director may make an order directing the payment or repayment of money from a landlord to a tenant or from a tenant to a landlord.*

- [7] Based on the undisputed testimony, the Officer finds that the Notice was properly served on the Tenant and the Tenant did not pay the outstanding rent within 10-days of receiving the Notice. Furthermore, the Tenant did not file a 'Section 75 Application' with the Rental Office and is therefore deemed to have accepted the Notice. The Officer therefore finds that the Landlord has established a valid basis for terminating the rental agreement due to non-payment of rent and that the Tenant is therefore liable for such rent owed to the Landlord.

Conclusion

- [8] The Notice is valid and the Applications are allowed, notwithstanding a variance to the vacate date.
- [9] The rental agreement between the parties for the Premises shall terminate effective 11:59 p.m. on June 11, 2023. The Tenant shall vacate the Premises by this time and date.
- [10] The Tenant shall pay the Landlord the pro-rated outstanding rent in the amount of \$1,656.67 (\$1,400.00 April & May Rent and \$256.67 pro-rated June Rent (to June 11th inclusive)) forthwith upon receipt of this Order.

IT IS THEREFORE ORDERED THAT

- A. The rental agreement between the parties for the Premises shall terminate effective 11:59 p.m. on June 11, 2023. The Tenant shall vacate the Premises by this time and date.
- B. The Tenant shall pay the Landlord \$1,656.67 forthwith upon receipt of this Order.
- C. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

DATED at Charlottetown, Prince Edward Island, this 7th day of June, 2023.

(sgd.) Jeremy Coffin

Jeremy Coffin
Residential Tenancy Officer

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission (the "Commission") by serving a Notice of Appeal with the Commission and every party to this Order within **7** days of this Order. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.